

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BE&K ENGINEERING COMPANY,
(Subsidiary of BE&K, Inc.)

Defendant.

CIVIL ACTION NO. 05-697
(KAH)

SUPPLEMENTAL DECLARATION OF NARAYAN SWAMY

I, Narayan Swamy, do hereby depose and state as follows:

1. I provided the letter dated June 27, 2006, attached as Exhibit 1, to Equal Employment Opportunity Commission Trial Attorney Woody Anglade in late June 2006.

2. Mr. Anglade recently contacted me and asked me to submit this Supplemental Declaration concerning my letter.

3. I affirm that the text of my June 27, 2006 letter is based on my own personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 10/18/06

Narayan Swamy
NARAYAN SWAMY

Subscribed and sworn before me
this 18 day of October 2006

Charles J. San Germano
Notary Public

My Commission expires:

Charles J. San Germano
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 1/15/2008

EXHIBIT 1

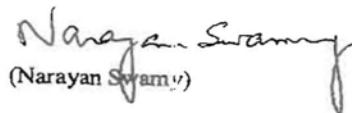
Narayan Swamy
7 Tally Road
Hamilton, NJ 08619
6/27/2006

To whom it may concern

I joined BE&K in their Newark, Delaware office in October 1994 worked as a Senior Process Engineer. My official title was "Design Specialist". I left BE&K in September 1996 to join Fluor Daniel at their Marlton, NJ office since it was closer to my home. I had very good performance reviews during this period and the Process Manager from DuPont, with whom I worked on the PTFE project during this time, sent an e-mail statement at the time of my departure, praising my technical and process knowledge.

When the Fluor Daniel office in New Jersey closed in 2000, I rejoined BE&K in their Newark, Delaware office in March 2000 and worked as a Senior Process Engineer. In May 2002, I was told by Mr. Howe, the Process Engineering Manager that my job was being terminated effective immediately. During this period, I had good reviews which pointed out my superior technical knowledge and competence. I was also complemented by the Project Manager for my performance. When I asked Mr. Howe the reason for my termination, I was told that there were too many senior Process Engineers and there was not enough work for them. I was 61 1/2 years old at the time of my termination. At the time of my termination, I was working on the design of relief valves for some DuPont projects.

Soon after my termination, BE&K employed 2 or three junior process engineers. I believe that my termination was related to my age. I also believe that this decision was made by the Office Manager and Mr. Howe simply carried out this decision.


(Narayan Swamy)

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EEOC 0000000567

EXHIBIT 2

WOODY ANGLADE - Activity in Case 1:05-cv-00697-SLR Equal Employment Opportunity Commission v. BE&K Engineering Company "Scheduling Order"

From: <ded_nefreply@ded.uscourts.gov>
To: <ded_ecf@ded.uscourts.gov>
Date: 1/12/2006 10:23 AM
Subject: Activity in Case 1:05-cv-00697-SLR Equal Employment Opportunity Commission v. BE&K Engineering Company "Scheduling Order"

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U.S. District Court

District of Delaware

Notice of Electronic Filing

The following transaction was received from rld, entered on 1/12/2006 at 10:19 AM EST and filed on 1/12/2006

Case Name: Equal Employment Opportunity Commission v. BE&K Engineering Company
Case Number: 1:05-cv-697
Filer:
Document Number: 11

Docket Text:

SCHEDULING ORDER: Case referred to the Magistrate Judge for the purpose of exploring ADR. Joinder of Parties due by 1/31/2006. Amended Pleadings due by 1/31/2006. Discovery due by 5/31/2006. Dispositive Motions due by 7/31/2006. Motions in Limine due by 1/10/2007. Responses to Motions in Limine due by 1/17/2007. Pretrial Conference set for 1/24/2007 04:30 PM in Courtroom 6B before Honorable Sue L. Robinson. Jury Trial set for 2/5/2007 09:30 AM in Courtroom 6B before Honorable Sue L. Robinson. Signed by Judge Sue L. Robinson on 1/12/06. (rld,)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1079733196 [Date=1/12/2006] [FileNumber=151885-0]
[62093c8751beb849e8882154308f3501b334db3ab946e5ce5d0655c8e49c796d8327
2dbel1bacad23229ac928f2b2eac99ce50041d4ce9b7aecbf702b55a57e7]]

1:05-cv-697 Notice will be electronically mailed to:

Woody Anglade woody.anglade@eeoc.gov

Rudolph Contreras rudolph.contreras@usdoj.gov, usade.ecf@usdoj.gov; marie.steel@usdoj.gov

Margaret M. DiBianca mdibianca@ycst.com, bagos@ycst.com; dcole@ycst.com; rugg@ycst.com

1:05-cv-697 Notice will be delivered by other means to:

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	Civil Action No. 05-697 (SLR)
v,)	
)	
)	
BE&K ENGINEERING COMPANY,)	
(SUBSIDIARY OF BE&K, INC.))	
)	
Defendants.)	

ORDER

At Wilmington this Monday of Jan., 2006, the parties having satisfied their obligations under Fed. R. Civ. P. 26(f), and the court having conducted a pretrial scheduling conference pursuant to Fed. R. Civ. P. 16 and D. Del. LR 16.2(a) and (b).

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties have agreed to exchange on or before January 12, 2006 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Discovery.**
 - (a) Discovery will be needed on the following subjects:
 - Whether Defendant terminated Juan Obed Perez on the basis of his age in violation of the Age Discrimination in Employment Act?
 - Whether Mr. Perez is entitled to any back pay damages or other damages?
 - Whether Mr. Perez has met his burden to mitigate any alleged damages?

(b) All discovery shall be commenced in time to be completed by May 31, 2006.

(c) Maximum of 50 interrogatories by each party to any other party.

(d) No limitation of requests for admission by each party to any other party.

(e) Maximum of 10 depositions by plaintiff and 10 by defendant.

(f) Each deposition is limited to a maximum of 7 hours unless extended by agreement of parties.

(g) Reports from retained experts under Rule 26(a)(2) on issues for which any party has the burden of proof due by March 31, 2006. Rebuttal expert reports due by May 1, 2006.

(h) **Discovery Disputes.** Any discovery dispute shall be submitted to the court pursuant to Fed. R. Civ. P. 37. During the course of discovery, each party is limited to two (2) Rule 37 motions. The court shall make itself available, however, to resolve through a telephone conference, disputes that arise during the course of a deposition and disputes related to entry of a protective order.

3. **Joinder of other Parties, Amendment of Pleadings, and Class Certification.** All motions to join other parties, amend the pleadings, and certify a class action shall be filed on or before January 31, 2006.

4. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring ADR.

5. **Summary Judgment Motions.** All summary judgment motions shall be served and filed with an opening brief on or before July 31, 2006. Briefing shall be pursuant to D. Del.

LR 7.1.2. No summary judgment motion may be filed more than ten (10) days from the above date without leave of the court.

6. **Applications by Motion.** Any application to the court shall be by written motion filed with the clerk. Unless otherwise requested by the court, counsel shall not deliver copies of papers or correspondence to chambers. Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1.

7. **Motions in Limine.** All motions in limine shall be filed on or before ^{1/10/07} ~~two weeks~~ before ~~pretrial conference~~. All responses to said motions shall be filed on or before ~~one~~ ^{1/17/07} week before ~~pretrial conference~~.

8. **Pretrial Conference.** A pretrial conference will be held on ^{1/24/07} at ^{4:30 p.m.} m. in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. The Federal Rules of Civil Procedure and D. Del. LR 16.4 shall govern the pretrial conference.

9. **Trial.** This matter is scheduled for a [day/week] bench/jury trial commencing on 2/5/07 in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. For purposes of completing pretrial preparations, the parties should plan on being allocated a number of hours in which to present their respective cases.


United States District Judge

EXHIBIT 3